

# San Francisco Bay Conservation and Development Commission

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September 1, 2022

**TO:** Design Review Board Members

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**SUBJECT:** **Middle Harbor Shoreline Park Master Plan Update, Port of Oakland, Alameda County; Third Pre-Application Review**  
(For Design Review Board consideration on September 12, 2022)

## Project Summary

### Project Proponent

Port of Oakland (Port)

### Project Representatives

Aaron McGregor, Jan Novak, Ramona Dixon, Richard Sinkoff (Port of Oakland, property owner and project proponent); Linda Gates, Michael Freitag (Gates and Associates, consultants); David Shiver (BAE Urban Economics, consultants)

### Project Location

The approximately 46-acre project site is located at the Port of Oakland in a highly industrialized area of the City of Oakland in Alameda County. The site is comprised of the approximately 40-acre Middle Harbor Shoreline Park (MHSP) and the approximately six-acre Port View Park (PVP), located immediately west of MHSP. The site is surrounded by Port facilities along its inland borders, including the Oakland International Container Terminal to the east, the TraPac Terminal to the north, Middle Harbor Road and the BNSF Railroad to the northeast, and the Ben E. Nutter Terminal to the west. Along its bayward edges, the site encircles the Middle Harbor Enhancement Area (MHEA), an approximately 189-acre subtidal habitat restoration area, and is bordered by the Oakland Estuary to the south.

### Project Overview

The proposed project includes updates to the MHSP Master Plan and the MHSP Management Plan. The updates include physical improvements that would bring the park's public access areas into compliance with the existing BCDP Permit No. 1999.009.07, additional improvements to enhance the experience of existing users and draw new users to the park, a landscaping plan, and changes to the permit's special events provisions, as well as new features at PVP to enhance public access.



## **Prior Review by the Design Review Board**

The Design Review Board (DRB) has previously completed two reviews of the proposed project, first on July 12, 2021, and again on March 21, 2022.

At the time of the first review on July 12, 2021, the proposed project included changes to MHSP, but not the neighboring PVP, which subsequent versions of the proposal have been revised to include. Recommendations from the Board included the following:

1. The project team should consider ways to make the park a regional destination, including: increasing the frequency of events and using the events to generate revenue; increasing accessibility for different modes of transportation, especially for bicycles and public transportation, with an emphasis on access from 7<sup>th</sup> Street; finding ways for visitors to learn about Port operations in real time; and supporting education opportunities within the park.
2. The project team should consider embracing the natural landscape conditions and plant coastal scrub instead of typical park plantings.

At the second review on March 21, 2022, the Port presented further details on the improvements proposed in the updated Master Plan, including:

1. Park-wide improvements, including: replacing much of the lawn with native vegetation, refurbishing and updating existing signage, adding new interpretive signage, paving existing deteriorated paths, adding new paved paths, repaving Point Arnold, and providing trail amenities such as bicycle racks and mile markers.
2. Port View Park and Port View Park Connection improvements, including: one new dog park at MHSP and one at PVP, connected by a ½-mile route along the PVP Connection; a new public kayak launch at the intersection of PVP and the PVP Connection; utilizing the existing Port View Tower as a classroom; and adding a new pop-up café to the ground floor of Port View Tower.
3. Point Arnold improvements, including: improved paving and landscaping, wind-protected spaces, and additional improvements that may include a picnic area, refurbished seating, a nature-themed play area, an entryway, wireless internet for visitors, and park service center renovations.
4. Promenade, Amphitheater, and Beach improvements, including: a new outdoor education hub to replace the planned indoor interpretive center/educational building and interpretive center expansion; a new boardwalk and seating nodes among vegetated dunes; and a dune habitat education area. The Port also introduced a plan to place sand to expand the beach, but noted that this is part of the MHEA project, which is a separate project.
5. UP Mole improvements, including: a new modular elevator at the Observation Tower to replace the non-functioning elevator; replacing some of the existing ADA-accessible public parking spaces with general parking; additional improvements that may include a new picnic area and interpretive signage at the maritime observation station.

At the time of the second Board review, comments on the following topics that were received during the first review had not yet been addressed by the project proponents: lighting, fishing, bird watching areas, shallow rocky subtidal habitat for environmental education, a wetland/lagoon behind the beach, and smaller event programming on the weekends.

The Board's feedback at the second review included the following:

1. **Improvements, Management, and Maintenance.** A restoration ecology approach to landscape and general park maintenance should be part of the baseline improvements. There needs to be a timeline and more clear guidance on what will enable the Level 1 and Level 2 improvements (additional improvements requiring third-party funding or partnerships, described in more detail below). The maintenance budget in the Management Plan will likely need to be larger than current maintenance funding. A "Friends of MHSP" group could help guide stewardship and engagement at the park.
2. **Planting.** Planting will be key to reviving the park and should use a restoration ecology approach. There does not need to be as much lawn/open space, and there should be more pathways wandering through the coastal scrub. Park maintenance should differentiate between general park maintenance and horticultural maintenance.
3. **Special Events.** Host as many events as possible to fund park maintenance and attract visitors, but keep parts of the park open for public access no matter the size of the event. There needs to be a clear plan for which areas will be used for events, which will be open to the public, and how events will be managed, including provisions for amenities, security, lighting, and parking.
4. **Beach.** The Board was concerned about the beach design and wanted to see the technical documentation supporting the proposal. Issues raised included concern about the cost of the beach restoration versus the likelihood of success, and how the beach will adapt to sea level rise.
5. **Boardwalks and Dunes.** Boardwalks can be expensive, so consider other designs such as footpaths with rod and cable edging, and the landing decks at Chrissy Field. An advisory panel may be helpful for developing the dune landscape. Consider placing coarser sediments to hold down the sand. Move the small event lawn space to allow the lawn area adjacent to the dunes to have more of a restoration palette to transition the dunes to the beach.
6. **Sea Level Rise.** The Board would like to understand how the park design will respond to future water levels.
7. **Community Involvement.** Consider re-instating the Community Advisory Committee to partner and advise on park management. Ensure that park amenities are designed to be inviting to people of color.

The Board proposed that the Master Plan update should take on a "three-legged stool" approach, with the "legs" consisting of" 1) a robust park maintenance program; 2) education and outdoor event programming; and 3) a comprehensive planting plan, focused on coastal scrub habitat, including initial planting plus a plant establishment period.

For further details on the project and the project site that have been shared to date, please see the materials for the first review, at <https://www.bcdc.ca.gov/drb/2021/07-12-Agenda.html>, and the second review, at <https://www.bcdc.ca.gov/drb/2022/03-21-Agenda.html>.

## Project Site

### Site History

The majority of the land at this site was once water, located on or near *Huchiun*, the traditional indigenous homeland of the Muwekma Ohlone people. During the Spanish colonization period, the site became part of *El Rancho de San Antonio*, an approximately 43,000-acre area granted in 1820 by the Spanish to Don Luis Maria Peralta. In 1874, a deep-water port was created at the site. During World War II, the MHSP portion of the site became controlled and used by the U.S. Navy as part of the Navy's 153-acre Fleet Industrial Supply Center, Oakland (FISCO).

In 1971, the Port constructed PVP outside of the Navy-controlled FISCO area, in conjunction with the Port's new Seventh Street Terminal Complex. Initially 2.5 acres in area, the park closed in 1989 following damage from the Loma Prieta Earthquake. In 1995, the Port re-opened PVP and expanded it to approximately six acres, pursuant to the public access requirements of BCDC Permit No. 1991.012.02<sup>1</sup>, which authorized a container terminal project at Berth 30.

In 1998, the Port took ownership of the former FISCO site from the Navy and planned the "Vision 2000 Maritime Development Program" (Vision 2000 Program) to redevelop the area and modernize and expand the Port's maritime facilities. Vision 2000 consisted of three main projects: 1) the Oakland Harbor Navigation Improvement Project, which deepened the Oakland Harbor to -50 feet (-50 Foot Project); 2) construction of the Joint Intermodal Terminal to increase rail efficiency; and 3) the Berths 55-58 Project, which involved development of a new marine cargo terminal with five new container ship berths.

In 1999, BCDC issued Permit No. 1999.007.00 to the Port for the Berths 55-58 project. The project involved a significant reconfiguration of the shoreline in and around the former FISCO area, including removing large areas of fill and adding new fill for the new terminal and the creation of MHSP, which was constructed in 2004 as the BCDC-required public access component of the project.

Furthermore, in 1998 and 2001, BCDC issued two Letters of Agreement for Consistency Determination Nos. C1998.010.00 and C2000.014.00 to the U.S. Army Corps of Engineers (USACE) for the -50 Foot Project and related sediment disposal and re-use at several areas around San Francisco Bay. Pursuant to these authorizations, approximately 5.8 million cubic yards of dredged sediment was used to create the approximately 189-acre MHEA, a shallow subtidal habitat restoration area that provides valuable marine wildlife and bird viewing opportunities to visitors of the adjacent parks.

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<sup>1</sup> The Port estimates that Port View Park is six acres in area, but there are inconsistencies in BCDC Permit No. 1991.012.02, which alternately states the park measures 5.01 and 5.86 acres. The acreage will be confirmed and corrected as needed when amending the permit based on the changes proposed herein.

The original design of MHSP was the result of a more than two-year public engagement process, in which the Port and its partners gathered feedback from surrounding West Oakland communities for incorporation into the MHSP Master Plan.

### **Middle Harbor Shoreline Park Existing Conditions**

MHSP (required under BCDC Permit No. 1997.007.09) is an existing, approximately 40-acre public shoreline park. It opened in 2004 and has since seen its annual visitation grow from 20,000 to approximately 60,000 visitors. The entire park is a BCDC-required public access area and provides public access to approximately 8,966 linear feet of shoreline.

In 2019, at the request of BCDC enforcement staff, Port staff began working to address several permit compliance issues that BCDC had identified during past site visits. Pursuant to negotiations between staff of both agencies, the Port has committed to resolving identified issues at MHSP, establishing a BCDC-approved process for managing special events, and conducting a public process to complete and implement updates to the MHSP Master Plan, MSHP Management Plan, and the BCDC permit for MHSP. Issues to be resolved include: inadequate park maintenance that has left key features in deteriorated condition, underuse due to limited transportation access options, impacts to visitor dwell time from strong winds and limited amenities, maintenance issues stemming from the wind and salty marine air, muddy conditions at the beach that impact how it can be used, key amenities envisioned in the original Master Plan and/or in the BCDC permit that were never built, unauthorized special events, and impacts on public access and wildlife habitat.

On August 18, 2022, the Commission approved a settlement agreement with the Port which includes timelines to remedy the compliance actions and to apply for a permit amendment to incorporate the updated Master Plan and Management Plan. The draft plans are due to BCDC by December 31, 2022, but the deadline allows for time extensions of 60 days for each subsequent Design Review Board meeting after the September 12, 2022, meeting. The 7th Street connector is currently scheduled for the October 17, 2022, meeting; therefore the deadline for submittal of the draft plans to BCDC has been extended by 60 days to March 1, 2023.

### **Port View Park Existing Conditions**

Port View Park (PVP) (required under BCDC Permit No. 1991.012.02) is an existing, approximately 6-acre public shoreline park adjacent to MHSP. It re-opened in 1995 and provides BCDC-required public access along approximately 2,287 linear feet of shoreline. The park includes a range of required public access amenities, including benches, a fishing pier, a historic railroad building (Port View Tower), a play area, public parking, a restroom, walkways, a viewing area, and related amenities.

PVP was largely constructed as envisioned and required in the BCDC permit. Similar to MHSP, there exist several permit compliance issues at the site, including missing required public access amenities, unauthorized restrictions on hours of operation of the public access area, and general maintenance issues. The Port has been working with BCDC staff to address these existing compliance issues since 2021.

## Proposed Project

### MHSP Master Plan Update (Exhibits 3-6, 23-34)

The following sections include descriptions of the project features that required further review by the Board. Additional details on the overall improvements proposed in the Master Plan Update can be found in the March 21, 2022, staff report for this project (<https://www.bcdc.ca.gov/drb/2022/03-21-Agenda.html>).

1. **Phasing and Feasibility (Exhibits 4-6).** The Master Plan Update has divided its proposed improvements into three categories: Baseline Improvements, Level 1 Improvements, and Level 2 Improvements. The Baseline Improvements include “core park improvements associated with the MHSP permit,” which are proposed with the intention to address the above-mentioned compliance issues related to BCDC Permit No. 1999.007.09. As shown in Exhibit 4, Baseline Improvements include park-wide furnishing and signage refurbishment, plantings and irrigation, the modular elevator, pathway paving, education hub and outdoor classroom, beach access boardwalk, enhanced wharf walk, multi-use lawn, and park service center renovation at MHSP. The 7<sup>th</sup> Street Bike and Pedestrian pathway, which the Port plans to present at an upcoming DRB meeting, would also be a Baseline Improvement.

Level 1 Improvements (Exhibit 5) are defined as “additional park improvements to enhance the experience of core user groups, dependent on additional third-party funding.” Improvements in this category include park-wide amenities, such as bicycle racks, free wireless internet, and additional site furnishings, as well as the proposed discovery play area and activated entry at 7<sup>th</sup> Street.

Level 2 Improvements (Exhibit 5) are defined as “further park improvements to attract new user groups, dependent on additional analysis and/or permitting, robust third-party partnerships, and governance.” This category includes park-wide new interpretive signage and directories, and an experiential boardwalk and vegetated berms in the dunes area in MHSP, the proposed two new dog parks and connector in MHSP and PVP, and new kayak launch at PVP.

More detailed descriptions of these improvements can be found in the staff report for the March 21, 2022, DRB review.

2. **Special Events (Exhibits 19-21, 23-25).** During the Board’s second review of this project, Board members encouraged the Port to host as many events as reasonable in order to generate revenue for maintenance, to maintain public access in MHSP regardless of event size, and to develop a clear plan for managing event spaces and needs. As stated on the Draft Management Plan, the Port’s vision for special events at MHSP is “to provide an outstanding venue for public use that promotes recreational, educational, and cultural enrichment while preserving natural and historic resources and contributing to the economic sustainability of the park.” Key principles of the vision are:

- Maintaining public access
- Protecting natural and cultural resources
- Ensuring compatibility with Port maritime and terminal operations
- Addressing parking and transportation access
- Providing program transparency
- Assessing fair and reasonable deposits and charges



The Master Plan update will specify the physical area where special events can be hosted in MHSP and PVP. This area includes Point Arnold, which would be designated for medium and small events, as well as the food truck space in MHSP and the pop-up café in PVP to serve as potential concession areas (Exhibit 23).

The Port is planning to accommodate three sizes of events: small, medium, and large. A small event would be one hosting 50 to 1,000 people, such as a private picnic or wedding. A medium event would host up to around 2,500 people, and a large event would host up to 4,000 people. Medium and large events might include private picnics or festivals (Exhibit 23). The proposed Master Plan and draft Management Plan assumes that annually, MHSP will host 10 small events, two medium events, one unspecified large event, one 2-day ticketed music festival (with greater than 4000 people), and 20 weddings (Exhibit 21). Special events would close portions of MHSP to the public and are distinguished from the park's picnic reservations, which can host up to 1,500 people but do not result in any park closures.

The area proposed as the large event space is centered on the multi-use lawn and includes Point Arnold. The large event space is proposed to accommodate concessions, security, guest services, first aid, restrooms, production space, and food trucks, with a designated shuttle drop-off on 7<sup>th</sup> Street and a ride share drop-off on Middle Harbor Road. The Port does not expect that all events would use the entirety of the space available; however, a full closure of this area would include closure of a portion of the waterfront between Point Arnold and 7<sup>th</sup> Street. The Port has indicated that the closure of the waterfront would be for logistical reasons relating to the placement of barriers over a large area and the need for security (Exhibits 24-25).

3. **Planting and Restoration Ecology (Exhibits 26-34).** Feedback during the DRB's second review of the project included recommendations to minimize the amount of lawn at MHSP and to take a restoration ecology approach to the park's landscaping. Based on this feedback, the Port proposes removing all lawn areas outside of the multi-purpose lawn at Point Arnold and replacing them with native coastal scrub vegetation more suited to site conditions. Coastal scrub would also be planted in other existing ruderal habitats, transforming the majority of the park into coastal scrub habitat. The restoration process would include a planting plan and an establishment plan, covering the irrigation and maintenance necessary to allow the habitat to become self-sufficient without irrigation. Additionally, the Port has extended the dune habitat area to supplant the existing lawn between the existing dunes and the proposed education hub. Proposed planting zones, establishment methods, irrigation zones, and planting palette are included in Exhibits 28-34.

### **MHSP Management Plan Update (Exhibits 7-22)**

The Port has prepared a draft of the updated Management Plan, which can be downloaded from the Port's Middle Harbor Shoreline Park Update webpage

(<https://www.portofoakland.com/community/recreation/parks-and-waterways/get-involved/>).<sup>2</sup> The

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<sup>2</sup> The Draft Middle Harbor Shoreline Park Management Plan Update can also be downloaded from this direct link: <https://www.portofoakland.com/files/PDF/BAE%202022%20Draft%20Management%20Plan%20REV2%2008%2029%202022.pdf>.

Management Plan is intended to serve as the Port's "road map" for implementing the updated Master Plan. The draft Management Plan update provides new estimates for MHSP's operating costs and revenues and evaluates three alternative models for park governance.

The draft Management Plan includes a section called Operating Experience, which provides context for the park's current and past operating expenses, maintenance requirements, programming and partnerships, visitation, and special events program under two different management models (i.e., a management agreement with EBRPD from 2003-2009, and direct Port management from 2009 to present. The section includes several lessons learned about the main drivers of the park's maintenance costs, such as lawn irrigation, corrosion, the Observation Tower elevator and lift, gravel walkways, graffiti and vandalism, restrooms, educational facilities, and the park service center. In addition to a description of the park's current special event regime, the section also includes a discussion of the Port's vision and plans for special events in the future.

The Master Plan Update and Management Plan Update sections describe: the proposed changes to the Master Plan and associated construction cost estimates; future park programming, including environmental education and science, maritime and historical/cultural, and permits and rentals; and estimated revenue from park use fees including outdoor events, picnics, commercial film and photography, for-profit education, corporate sponsorships, and concessions.

The draft Management Plan compares three different structures for operating and maintaining the park, and projects how each might perform given anticipated programming and revenues. The three organizational structures include direct management by the Port, management by the East Bay Regional Parks District (EBRPD), and management by a non-profit or for-profit entity under contract with the Port. The plan compares the pros and cons of each organizational structure in terms of costs, revenue potential, effects on park programs, and service quality. It also provides a financial analysis estimating operation and personnel costs, capital improvement expenses, estimated annual reserves for capital expenses at MHSP and PVP, and potential revenues for each of the three structures.

Following the Board's review, the Port will incorporate any feedback then work to secure a third-party review of the document.

## **Beach Design**

At the March 21, 2022, Design Review Board meeting, the Board requested additional information about the design of the beach, including the geotechnical studies informing the design, to understand how the beach will function as a recreational feature of the park and how it might respond to rising sea levels. The Port has provided the following documents on its Middle Harbor Enhancement Area Technical Advisory Committee website (<https://www.portofoakland.com/stakeholder-engagement/middle-harbor-enhancement-area-technical-advisory-committee/>), under the Design Charrette and Public Engagement sections, to provide background on the MHEA beach project and the recommended design:

1. Beach Enhancement Options Technical Memo, March 6, 2020.  
[https://www.portofoakland.com/files/PDF/2020-03-06%20MHEA%20Beach%20Alternatives%20Evaluation%20Technical%20Memo%20\(1\).pdf](https://www.portofoakland.com/files/PDF/2020-03-06%20MHEA%20Beach%20Alternatives%20Evaluation%20Technical%20Memo%20(1).pdf).
2. Design Charette Alternatives Discussion Presentation, May 15, 2020.  
<https://www.portofoakland.com/files/PDF/2020.05.15%20Charrette%20Presentation.pdf>.



3. Technical Advisory Committee Beach Enhancement Options Analysis Overview and Recommended Option Presentation, May 28, 2020.  
<https://www.portoakland.com/files/PDF/2021%20MHEA%20Beach%20Overview%20Final.pdf>.
4. Beach Enhancement Preliminary Cost Estimate Overview Presentation, August 13, 2020.  
<https://www.portoakland.com/files/PDF/MHEA%20Beach%20Modelling%20slides.pdf>.
5. Beach Enhancement Alternatives Overview Presentation, August 2021.  
<https://www.portoakland.com/wp-content/uploads/October-2021-MHEA-Beach-Overview-Public-Meeting-3.pdf>.

The construction of the beach was initially a condition of BCDC Permit No. 1999.007.00 as a component of the public access area at MHSP. The alterations to the beach design shown in the proposed MHSP Master Plan improvements were developed for the MHEA project, as part of a remedial action request issued because the United States Army Corps of Engineers (USACE) and the Port (as local project sponsor) have not yet completed the MHEA as authorized in the Commission's Consistency Determination C2000.014.01 in 2000. The beach is a feature of both MHSP and the MHEA, with the Mean High Tide line marking the boundary between the two. The proposed beach improvements are being planned by the Port and USACE but would be implemented by the USACE for the MHEA project.

The beach design shown in the MHSP project proposal was developed through a design charrette and reviewed by a Technical Advisory Committee (TAC) that includes stakeholders and regulatory agencies, with information presented by the technical members of the MHEA project team. The original design authorized in Permit No. 1999.007.00 involved a beach area that stretched from the Mole to Point Arnold. The sand used to create the beach was too fine and was blown on shore, leading to degradation of the beach into a muddy intertidal area. In the 2020 Beach Enhancement Technical Options Memo, linked above, the Port and the USACE identified three alternatives for the beach, including a "no action" alternative and two enhancement options using coarse sand to keep the beach in place. The design charrette (see the May 15, 2020, presentation linked above) considered those three options.

The alternative preferred by the USACE and the Port, and included in the proposed MHSP design, was originally provided as "Alternative 4" (see the May 28, 2020, presentation linked above) and is now referred to as "Alternative 2." This alternative was presented to the TAC and design charrette consultants in May 2020. The area of fill to be covered by the alternative is approximately 142,900 square feet at the northern end of the beach, with a volume of coarse sand totaling more than 10,560 cubic yards (see the August 13, 2020, presentation linked above). The Port and USACE stated in the "Beach Enhancement Alternatives Overview Presentation" from August 2021 (URL provided above) that they prefer this alternative because: it would provide continuous beach sand down to the water, even at low tide; it is the most resilient design; no significant sedimentation is predicted due to its steeper beach slope; it retains biodiversity on the southern part of the existing beach, and there is less risk for the creation of muddy areas. BCDC staff have not received technical documentation for the preferred alternative or a comparative analysis of the preferred analysis and the other three alternatives presented in the March 6, 2020 Technical Memo.

### **Sea Level Rise Resiliency and Adaptation**

Staff have referenced the Adapting to Rising Tides Flood Explorer to better understand the existing flood risk at the park. At 24 inches of increased water level above current MHHW, which is roughly equivalent to the medium-high risk aversion scenario for mid-century as well as a 5-year storm at today's water levels, the existing beach would be mostly submerged with minor overtopping flooding

at the south side of Point Arnold and at the FISCO breakwater at the south end of the beach. At 36 inches of additional water (equivalent to King Tides at 24 inches of sea level rise), the beach would be entirely inundated and large sections of the shoreline between Point Arnold and the Mole would experience overtopping flooding. With 66 inches of additional water, equivalent to a 100-year storm with 24 inches of sea level rise as well as mean higher high water in the year 2090 (medium-high risk aversion, high-emissions scenario), almost the entire shoreline of the park would be overtopped with flooding, and the beach, lower dunes, and adjacent lawn area would be submerged.

In 2019, the Port completed the Port of Oakland Sea Level Rise Assessment per Assembly Bill (AB) 691, which required sea level rise risk assessments for all areas under the jurisdiction of the State Lands Commission.<sup>3</sup> The assessment was based on the Ocean Protection Council's (OPC's) 2018 Sea Level Rise Guidance and considered 1 foot of sea level rise, corresponding to the 2030 high emissions/medium-high risk aversion scenario; 2 feet, corresponding to the 2050 high emissions/medium-high risk aversion scenario; and 3 and 5.5 feet, corresponding to the 2100 high emissions/low risk aversion and low emissions/medium-high risk aversion scenarios, respectively.<sup>4</sup> The assessment maps each scenario; considers the vulnerability (in terms of exposure, sensitivity, and adaptive capacity) and risk (in terms of potential consequences of sea level rise impacts) of different Port assets; and proposes strategies to protect and preserve vulnerable assets.

The assessment includes a discussion of the Middle Harbor Shoreline Park. It notes the initial exposure as flooding resulting from 2 feet of sea level rise and the 100-year storm tide in the year 2050, and the point of daily tidal inundation at an increase in the level of mean higher high water of 5.5 feet in 2100. Proposed adaptation strategies included:

1. Enhancing the existing dunes area;
2. Adding a living shoreline south of Middle Harbor Shoreline Park;
3. Elevating the street;
4. Constructing a seawall; and
5. Armoring the shoreline along the peninsula of Middle Harbor Shoreline Park.

The Port has not yet conducted a sea level rise risk assessment for the proposed project that considers the vulnerability or mitigating effects of the proposed improvements, including the resiliency of the proposed beach.

## Commission Plans, Policies, and Guidelines

### San Francisco Bay Plan Policies

It is important to note that the Commission, with input from the DRB, previously determined that MHSP, as permitted and required in the Permit and its amendments, represents maximum feasible public access associated with the Berths 55-58 project. Likewise, PVP was determined to represent

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<sup>3</sup> The Port of Oakland Sea Level Rise Assessment is available on the Port's website at [https://www.portofoakland.com/files/PDF/Task%207\\_20190709%20Port%20Oak%20SLR%20Assmt\\_Rev2.pdf](https://www.portofoakland.com/files/PDF/Task%207_20190709%20Port%20Oak%20SLR%20Assmt_Rev2.pdf).

<sup>4</sup> OPC's projections for each of these scenarios is 0.8 feet for the 2030 high emissions/medium-high risk aversion scenario; 1.9 feet for the 2050 high emissions/medium-high risk aversion scenario; and 3.4 and 5.7 feet for the 2100 high emissions/low risk aversion and low emissions/medium-high risk aversion scenarios, respectively.

maximum feasible public access for the container terminal development project at Berth 30. MHSP and PVP were key components of the set of public benefits that allowed the Commission to authorize the Port's fill projects.

The proposed Master Plan update does not propose new fill or development that would trigger additional public access requirements. However, as described above, BCDC staff has determined that the Port is not in compliance with several key public access requirements of the MHSP and PVP permits, and as such is not currently providing maximum feasible public access as required. The Port has proposed updates to the public access areas, as a means of both remedying past violations and providing the public with an improved, modern park experience, and these improvements must comply with relevant policies as summarized in the March 21, 2022, Design Review Board staff report.

### Board Questions

Staff recommends the Board frame its remarks of the proposed public access improvements considering the existing permit requirements and the proposed development project. The Board may wish to refer to the public access objectives found in the Commission's Public Access Design Guidelines. Additionally, please provide feedback on the proposed public access improvements with respect to the Commission's policies on sea level rise, and environmental justice and social equity.

The seven objectives for public access are:

1. Make public access **PUBLIC**.
2. Make public access **USABLE**.
3. Provide, maintain, and enhance **VISUAL ACCESS** to the Bay and shoreline.
4. Maintain and enhance the **VISUAL QUALITY** of the Bay, shoreline, and adjacent developments.
5. Provide **CONNECTIONS** to and **CONTINUITY** along the shoreline.
6. Take advantage of the **BAY SETTING**.
7. Ensure that public access is **COMPATIBLE WITH WILDLIFE** through siting, design, and management strategies.

Staff also seeks advice from the Board on the following issues:

1. Management Plan
  - a. Organizational Structure Options
  - b. Considerations for inputs to the financial analyses (i.e. maintenance, management, use)
2. Special Events
  - a. Size, location, types, and frequency of events
  - b. Balancing special events with public access
  - c. Event programming areas, area of closure, and access routes
3. Planting strategy, palette, and maintenance
4. Proposed beach design in consideration of its function to park users and rising sea levels